

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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TRUSTEES OF THE PLUMBERS & STEAMFITTERS
LOCAL 21 ZONE 1 PENSION FUND,

Plaintiffs,

Civil Action No.:

v.

COMPLAINT

AIRFLOW AIR CONDITIONING
REFRIGERATION & HEATING CO.

Defendants.
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Preliminary Statement

1. This is an action by a multiemployer Pension Plan to collect withdrawal liability under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Section 1001-1461, as amended by the Multiemployer Pension Plan Amendments Act of 1980, Pub. L. No. 96-364, 94 Stat. 1208, 29 U.S.C. Section 1381 et. seq.

Jurisdiction and Venue

2. This Court has jurisdiction over this action pursuant to Section 4301 (c) of MPPAA, 29 U.S.C. Section 1132 (e)(1) and (f) and 1451(c).

3. Venue is proper in this judicial district pursuant to 4301 (d) of MPPAA, 29 U.S.C. Section 1132 (e)(2) and 1451 (d).

Parties

4. Plaintiff Trustees of the Plumbers and Steamfitters Local 21 Zone 1 Pension Fund (the "Fund") is a multiemployer pension plan within the meaning of the 29 U.S.C. Section 1002(37) and 1301 (a)(3). The Fund is administered from 1024 McKinley Street, Peekskill, NY 10566.

5. Plaintiffs Trustees of the Fund are Trustees of the Fund, and are fiduciaries of the Fund within the meaning of 29 U.S.C. Section 1002 (21)(A). The Fund's Trustees are collectively the administrator of the Fund, within the meaning of 29 U.S.C. Section 1002 (16)(A) and 1301 (a)(1), and the plan sponsor of the Fund, within the meaning of 29 U.S.C. Section 1002 (16)(B) and 1301 (a)(10).

6. Defendant, Airflow Air Conditioning, Refrigeration & Heating Co., is a corporation organized under the laws of the State of New York with its principal place of business in 2015 Route 9W Milton, NY 12547.

Claim for Relief

7. Plaintiffs repeat and reallege paragraphs 1 through 6 above and incorporate them herein by reference.

8. On or about July 28, 2015, the Defendant became obligated to contribute to the Fund pursuant to a collective bargaining agreement with Plumbers & Steamfitters Local Union No. 21.

9. Effective on or about May 3, 2019, the Defendant completely withdrew from the Fund, within the meaning of 29 U.S.C. Section 1383.

10. By letter dated March 12, 2020, (the "Assessment"), pursuant to 29 U.S.C. Section 1382 and 1399 (b)(1), the Fund assessed withdrawal liability against Defendant.

11. Under the Assessment, the Defendant was required to make eleven (11) quarterly payments of \$3,246.00 each with a final payment of \$1,456.00 beginning June 18, 2020, for a total of \$84,749.00.

12. By letter dated June 23, 2020, (the "Default letter"), pursuant to 29 U.S.C. Section 1399 (C)(5)(A), the Defendant was advised that its withdrawal liability payment was past due and failure to cure the deficiency within sixty (60) days would be considered a default within the

meaning of ERISA and that the total withdrawal liability to the Pension Fund in the amount of \$84,749.00 would be due and owing.

13. The Defendant, failed to cure the default within sixty (60) days after the Notice of Default.

14. Accordingly, under 29 U.S.C. Section 1399 (c)(5), all payments required by the Assessment, in the total amount of \$84,749.00 became due immediately plus accrued interest, liquidated damages, attorney's fees and court costs.

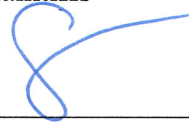
WHEREFORE, Plaintiffs respectfully request that this Court:

1. Award Plaintiffs judgment against the Defendant, for \$84,749.00
2. Interest thereon in accordance with Sections 4219 (c)(3) and 4301 (b) of MPAA, 29 U.S.C. Section 1399 (c)(3) and 1451 (b).
3. An amount equal to the greater of interest on the overdue interim withdrawal liability payments or liquidated damages in the amount of 20% of the overdue interim withdrawal liability payments in accordance with Sections 4301 (b) of MPPAA, 29 U.S.C. Section 1451 (b).
4. Award Plaintiffs the reasonable attorneys' fees and costs incurred by them in prosecuting this action, as required by Section 4301 (b) of MPPAA, 29 U.S.C. Section 1451 (b).
5. Award Plaintiffs such further relief as is just and proper.

Dated: September 22, 2020
Hempstead, New York

Respectfully submitted,

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